

## STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. B-04/09-228  
 )  
 Appeal of )

# INTRODUCTION

The petitioner appeals a decision by the Office of Vermont Health Access (OVHA) denying her M108 request for dental work. The original issue was whether OVHA abused its discretion in denying petitioner's M108 request. During the pendency of this case, petitioner temporarily left the state and petitioner's representative is unable to reach her or proceed with the case. OVHA made a Motion to Dismiss without Prejudice during the August 3, 2009 telephone status conference.

## DISCUSSION

OVHA is given discretion to determine whether individuals will receive medical coverage for procedures that are not covered by Medicaid. To successfully appeal a M108 denial, a petitioner needs to show that OVHA abused its discretion.

During the pendency of this case, petitioner's attorney was informed that her client left Vermont for several months; she has been unable to reach her client. Petitioner's

counsel informed the Board and OVHA of this information on August 3, 2009.

The case originally commenced when the petitioner filed for a fair hearing on April 24, 2009. There have been several status conferences. On August 3, 2009, OVHA asked the Board to dismiss the case for a lack of prosecution. The petitioner's attorney did not object. There is no prejudice to the petitioner by dismissing the within action as she can always reapply for M108 coverage.

ORDER

OVHA's Motion to Dismiss without Prejudice is granted and the case dismissed.

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